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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,181	01/29/2004	Michael D. Jordan	B04-01	4651

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EXAMINER	
GORDON, RAEANN	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/767,181	JORDAN, MICHAEL D.	
	Examiner	Art Unit	
	Raeann Gorden	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *1-29-04*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *23-42* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *23-42* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *3-8-04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 23, 36, 42, the water vapor transmission rate in the specification is for various urethane and not the cover claimed in the instant invention (see spec page 8). Claims 36 and 42, the compression for the cover does not include 70 (see spec page 3).

Note: If applicant chooses to add the above subject matter to the specification a new declaration will be required and the instant application will no longer be a CON of application 10/002,051. The subject matter is part of the original disclosure of the instant application but is not supported by the parent disclosure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 23-26, 29-33, and 35-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (6,220,972) in view of Kennedy, III et al (6,350,793). Regarding claim 23, Sullivan discloses a golf ball comprising a core (center) and at least one cover layer (abstract). The core has a PGA compression from 20 to 85 (col 4, lines 15-19). (Note: applicant's compression is equivalent to PGA compression since the commercial compression tester by ATTI Engineering in New Jersey was used, see app's spec page 4, lines 5-6 and Sullivan col. 8, lines 26-28). The diameter of the core is from 1.538-1.652 inches (golf ball diameter minus cover) (col. 4, and abstract). The cover layer materials include a blend of ionomers and metallocene polymers (col. 5, lines 23-27). Sullivan does not disclose a cover with a Shore D less than 60. However, Kennedy teaches a cover layer made from ionomers and metallocene polymers with a Shore D hardness of 63 or less (col. 11 lines 20-24, 54-55; col. 4, lines 23-25). The water vapor transmission rate is an obvious feature since the cover materials are the same. Regarding claim 24, Sullivan discloses the core PGA compression from 20 to 85 (col. 4, lines 15-17). Regarding claims 25 and 26, Kennedy teaches a cover Shore D hardness less than 55 (col. 4, lines 23-25). Regarding claims 29 and 30, Sullivan discloses the ionomer in the cover layer include zinc, sodium, and lithium ionomers (col. 5, lines 23-25). Regarding claims 31 and 32, Sullivan discloses the cover layer may include a blend of ionomers (col 5, lines 23-25). The blend is obviously defined as at least two or more ionomers. Regarding claim 33, Sullivan discloses the core includes from 5 to 40 parts by weight of zinc diacrylate and omits pentachlorothiophenol (col. 9, lines 60-63). Regarding claim 35, Sullivan discloses in table 6, example 1-1 a PGA

compression of 78 for the golf ball. Regarding claim 36, Sullivan discloses a golf ball comprising a core (center) and at least one cover layer (abstract). Table 6, example 1-1 discloses a PGA compression of 78 for the golf ball. The core has a PGA compression from 20 to 85 (col. 4, lines 15-19). The cover layer materials include a blend of ionomers and metallocene polymers (col. 5, lines 23-27). Sullivan does not disclose a cover with a Shore D less than 60. However, Kennedy teaches a cover layer made from ionomers and metallocene polymers with a Shore D hardness of 63 or less (col. 11 lines 20-24, 54-55; col. 4, lines 23-25). The water vapor transmission rate is an obvious feature since the cover materials are the same. Regarding claim 37, Sullivan discloses in table 6, example 1-1 a PGA compression of 78 for the golf ball. Regarding claim 38, the core includes polybutadiene, zinc acrylate, a free radical initiator, zinc oxide, and a filler (col. 9, lines 45-65; col. 11, line 23). Regarding claim 39, Sullivan does not disclose the Mooney viscosity of the polybutadiene used in the core. However, Kennedy teaches a core comprising a polybutadiene with a Mooney viscosity between 30 and 70 (col. 24, lines 16-23). Regarding claim 40, Kennedy teaches the polybutadiene is a blend comprising a first polybutadiene with a Mooney viscosity of 40 and a second polybutadiene with a Mooney viscosity of 60 (col 24, lines 58-61). Regarding claim 41, Sullivan discloses limestone or calcium/magnesium carbonate as a filler (col 11, line 30). One of applicant's options for a filler is a carbonaceous material, which is defined in the dictionary as composed, containing, relating to or yielding carbon. One of ordinary skill in the art would have modified the invention of Sullivan with Kennedy by lowering the hardness of the cover layer and using a polybutadiene

with a Mooney viscosity between 40 and 60 to increase the durability and flight characteristics of the golf ball.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (6,220,972) in view of Kennedy, III et al (6,350,793) as applied to claims 23-26, 29-33, and 35-41 above, and further in view of Rajagopalan et al (5,703,166). Sulivan in view of Kennedy discloses applicant's invention but fails to include the quantity of ionomer and metallocene polymer in the cover layer. However, Rajagopalan teaches a cover composition comprising from 99 to 1% of at least one ionomer resin and from 1 to 99% of at least one metallocene polymer (col 2, lines 53-60). One of ordinary skill in the art would have modified Sullivan and Kennedy in view of Rajagopalan by including the quantities of the ionomers and polymers to achieve the desired consistency of the cover composition.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan et al (6,220,972) in view of Kennedy, III et al (6,350,793) as applied to claims 23-26, 29-33, and 35-41 above, and further in view of Egashira et al (5,252,652). Sullivan discloses a sulfur in the core but does not disclose a specific type as claimed by applicant. However, Egashira teaches a core composition that includes sulfur compounds such as zinc salt of pentachlorothiophenal (table 1). One of ordinary skill in the art would have included pentachlorothiophenal in the core composition to increase the rebound resilience as taught by Egashira (col. 1, lines 50-55).

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy, III et al (6,350,793) in view of Sullivan et al (6,220,972). Kennedy discloses a

golf ball comprising a core (center) and a single layer cover (col 11, line 63). The cover can be made from ionomers and metallocene polymers and has a Shore D hardness less than 63 (col 11, lines 19-23, 54-55; col 4, lines 23-25). The water vapor transmission rate is an obvious feature since the cover materials are the same. Kennedy does not disclose a core PGA compression less than 75 or a lithium ionomer for the cover. However, Sullivan teaches a core with a PGA compression from 20 to 85 and a cover made from a lithium and a metallocene ionomer (col 4, lines 15-19; col 5, lines 23-27). One of ordinary skill in the art would have modified Kennedy in view of Sullivan by lowering the compression of the core and including lithium as the ionomer choice to increase the durability of the golf ball.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raeann Gorden whose telephone number is 571-272-4409. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rg
December 9, 2004

RAEANN GORDEN
PRIMARY EXAM